

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

March 28, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

HAWAII

Amend Prior Board Action of February 8, 2008, Agenda Item D-3, Encroachment on State Unencumbered Public Land by Robert C. McKnight; Accreted Lands of Kapaahu, Puna, Hawaii, TMK: Unassigned Lands, Makai of 3<sup>rd</sup>/1-2-01.

BACKGROUND:

At its meeting of October 26, 2007, Agenda Item D-1 as amended, the Land Board approved the staff recommendation requiring Mr. Robert McKnight to remove the encroaching structure, all debris and restore the land within sixty (60) days from the date of the Board's action. In addition, Mr. McKnight was to pay fines in the amount of \$2,500.00 (amended) as well as administrative costs of \$2,100.00. The Board also authorized a fine of \$2,000.00 per day in the event of failure to comply with the removal of the structure within the time frame allotted. The sixty-day cure period expired on December 24, 2007.

In a letter dated December 14, 2007, Mr. McKnight indicated that he was injured and as a result, unable to meet the deadline for the removal of the structure. He has requested an extension of six months without the \$2,000.00 per day penalty. Mr. McKnight also proposed an exchange of land he owns in the adjacent subdivision as a means of allowing him to keep the structure in its current location.

At its meeting of February 8, 2008, under agenda item D-3, as amended, the Land Board granted Mr. McKnight an extension to March 31, 2008 to remove the unauthorized structures and to restore the area or he will be subject to a one-time fine of \$1,500 for the 3 offenses and \$500 per day for any continuing offenses. The Board also gave authorization to the Department to work with the Office of the Attorney General to take any appropriate or necessary action to enforce the Board's decision.

UPDATE:

The most current volcanic eruption has moved into a phase where lava is flowing down the pali above the location of the McKnight structure. On March 3, 2008, County Civil defense notified Mr. McKnight that lava was flowing towards the only road accessing the area and he should make preparations to vacate should it continue. Photographs of the area taken by Civil Defense officials (exhibit A) show progress being made with the compliance requirements. The following day, Civil


Defense forced the evacuation of all persons residing in the vicinity including Mr. McKnight. In light of Mr. McKnight's inability to continue the removal of the structure, staff is recommending the Board amend the deadline for Mr. McKnight to complete the removal and restoration of the land to twenty-eight (28) days after the County Civil Defense has given permission to return, and access to the area that is sufficient to allow Mr. McKnight to continue his removal and restoration activities has been re-established.

RECOMMENDATION: That the Board:

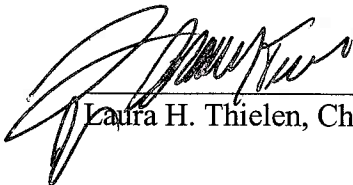
1. Amend its prior board actions taken at its meetings of October 26, 2007, under Agenda Item D-1 and February 8, 2008, under Agenda Item D-3, by amending the deadline for compliance from March 31, 2008 to twenty-eight (28) days after the County of Hawaii Civil Defense has given residents permission to return, and access to the area that is sufficient to allow Mr. McKnight to continue his removal and restoration activities has been re-established.
2. All terms and conditions listed in its October 26, 2007, Agenda Item D-1 and February 8, 2008, Agenda Item D-3 approval to remain the same.

Respectfully submitted,



 Gordon C. Heit  
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

